

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED

April 26, 2011

In the Matter of PIERNICK/HUGHES, Minors.

No. 300610

Oakland Circuit Court

Family Division

LC No. 04-693268-NA

Before: SERVITTO, P.J., and HOEKSTRA and OWENS, JJ.

MEMORANDUM.

Respondent Vandoson appeals as of right from a circuit court order terminating her parental rights to the minor children pursuant to MCL 712A.19b(3)(g) and (j). We affirm.

The trial court did not clearly err in finding that §§19b(3)(g) and (j) were both established by clear and convincing legally admissible evidence. MCR 3.977(E)(3) and (K); *In re Utrera*, 281 Mich App 1, 16-17; 761 NW2d 253 (2008). Respondent had been involved with Children's Protective Services (CPS) for several years and had received in-home services from Families First and other agencies to assist her with basic housekeeping and childcare. Both children were special needs children, with one child having severe cognitive impairment and requiring 24 hour care. Despite some cognitive limitations herself, respondent did demonstrate an ability to follow step-by-step instructions when an instructor was present, but could not or would not implement the same procedures on her own. Just four months after CPS closed its last prior case, the conditions that necessitated the agency intervention had returned. Respondent's house was filthy, respondent's daughter's clothing was filthy, and there was virtually no food in the house.

The record does not support respondent's argument that she was not provided with sufficient services. Respondent received in-home services from Families First on maintaining the home. She also received substance abuse monitoring, referrals to counseling, and contact information for MORC and Easter Seals. Respondent was unable or unwilling to meet ordinary basic needs such as maintaining a reasonably clean home, keeping sufficient food on hand to provide reasonably nutritious meals on a daily basis, providing the children with clean clothes that were appropriate for the weather, and making sure that the children bathe regularly. She received instruction on how to meet these basic needs and, to the extent she was unable or unwilling to meet them on her own, that is an issue of lack of personal ability or initiative rather than a lack of services. If respondent lacks the cognitive capacity to recognize that these basic needs must be met and to recall instruction on how to meet them, she lacks the cognitive capacity to benefit from services.

Given respondent's inability to retain, or unwillingness to implement, what she had learned, the trial court did not clearly err in finding that there was no reasonable expectation that respondent would be able to provide proper care and custody within a reasonable time. Further, the court did not clearly err in finding that the children were reasonably likely to be harmed if returned to respondent's home.

Finally, although it is clear that respondent and the children loved and were bonded to one another, because respondent was unable to meet the children's most basic needs on a consistent basis, the trial court did not clearly err in finding that termination of her parental rights was in the children's best interests. *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000); MCL 712A.19b(5).

Affirmed.

/s/ Deborah A. Servitto

/s/ Joel P. Hoekstra

/s/ Donald S. Owens